CUSTOMER NO.
34456

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Randolph B. Lipscher et al.

For:	ELECTRONIC HEALTHCARE INFORMATION AND DELIVERY MANAGEMENT SYSTEM		
App. No.:	09/440,557	Filed:	11/15/1999
Examiner:	MORGAN, Robert W.	Group Art Unit:	3626
Atty. Dkt. No.:	1039-0010	Confirmation No.:	3106

M/S APPEAL
The Board of Patent Appeal and Interferences
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDED BRIEF IN SUPPORT OF APPEAL

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This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(1)):

TABLE OF CONTENTS

I. REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is Catalis, Inc., (formerly known as RECARE, Inc.), the assignee, as evidenced by the assignment recorded at Reel 010519, Frame 0075.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c)(1)(ii))

There are no interferences or other appeals that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS (37 C.F.R. § 41.37(c)(1)(iii))

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

There are ninety-two (92) claims in the application (claims 1-92).

B. STATUS OF ALL THE CLAIMS

1. Claims pending:

   Claims 2-7, 9, 11-13, 25-29, 33-46, 64, 65, 73, 77, and 79-92.

2. Claims withdrawn from consideration but not canceled:

   NONE.

3. Claims allowed:

   NONE.

4. Claims objected to:

   NONE.

5. Claims rejected:

   Claims 79-89 are rejected under 35 U.S.C. § 102(a).

Claims 2-7, 9, 11-13, 25-29, 33-46, 64-65, 73, 77, 86, 90, 91, and 92 are rejected under 35 U.S.C. § 103(a).

6. Claims canceled:

Claims 1, 8, 10, 14-24, 30-32, 47-63, 66-72, 74-76, and 78.

C. CLAIMS ON APPEAL

There are forty-seven (47) claims on appeal, claims 2-7, 9, 11-13, 25-29, 33-46, 64, 65, 73, 77, and 79-92.

IV. STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

No amendments have been submitted subsequent to the Final Office Action mailed March 30, 2005.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

The following summary is provided to give the Board the ability to quickly determine where the claimed subject matter appealed herein is described in the present application and is not to limit the scope of the claimed invention.

Independent claim 2 is directed to a computer system for displaying targeted healthcare advertisements to a computer user. Exemplary embodiments are found, for example, at FIG. 3 and FIG. 6 of the present application and the corresponding disclosure. The computer system includes an advertising selecting computer (see, e.g., the Present Application, FIG. 6; p. 30, lines 14-22), a device for enabling entry of healthcare related information into the system (see, e.g., Id., FIG. 3; p. 23, line 12 to p. 24, line 6), a database for storing the healthcare related information and advertising information connected to the advertising selecting computer (see, e.g., Id., FIG. 6; p. 30, line 22 to p. 31, line 5), and a communications network for transmitting

the healthcare related information from the device to the advertising selecting computer for storage in the database (see, e.g., Id., FIG. 3; p. 25, lines 4-17). The advertising selecting computer compares the healthcare related information to the advertising information and selects advertising information for display at the device. The advertising selecting computer transmits via the communications network a pharmaceutical advertisement associated with the advertising information to the device for display (see, e.g., Id., FIG. 6; p. 31, line 9 to p. 32, line 13). In response to the computer user selecting the displayed pharmaceutical advertisement, a prescription form is automatically populated (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7).

Independent claim 25 is directed to a computer implemented method for managing health related information. Exemplary embodiments are found, for example, at FIG. 8, FIG. 18A, and FIGs. 22A-H of the present application and the corresponding disclosure. The method includes using patient medical information and healthcare provider information collected from at least one of a plurality of sources (see, e.g., Id., FIG. 3; p. 23, line 12 to p. 24, line 6), selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22A-H; p. 56, lines 11-19), transmitting the product advertisement to a computer user for display (see, e.g., Id., p. 55, line 19 to p. 56, line 4), and, in response to selection of the product advertisement, automatically populating a healthcare product order form (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7). Claim 73 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 25.

Independent claim 64 is directed to a computer-implemented method of displaying targeted healthcare product information. Exemplary embodiments are found, for example, at

FIG. 8, FIG. 18A, and FIGs. 22A-H of the present application and the corresponding disclosure. The method includes using stored medical information from a plurality of sources (see, e.g., Id., FIG. 3; p. 23, line 12 to p. 24, line 6). The sources include (i) for a selected patient, a patient's medical history, (ii) healthcare provider information, and (iii) prescription writing habits of a healthcare provider (see, e.g., Id., FIG. 6; p. 31, line 9 to p. 32, line 13). The method also includes associating the medical information from the at least one of the plurality of sources with stored healthcare advertisement information to select a healthcare advertisement for display to a user that is related to the at least one of the plurality of sources (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22A-H; p. 56, lines 11-19). The method further includes transmitting the healthcare advertisement for electronically displaying to the user (see, e.g., Id., p. 55, line 19 to p. 56, line 4), and, in response to selection of the healthcare advertisement, automatically populating a healthcare product order form (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7). Claim 77 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 64.

Independent claim 79 is directed to a computer-implemented method for preparing a prescription. Exemplary embodiments are found, for example, at FIG. 8, FIG. 18A, and FIGs. 22A-H of the present application and the corresponding disclosure. The method includes providing a pharmaceutical advertisement to an interface device (see, e.g., Id., p. 55, line 19 to p. 56, line 4), and populating a prescription form based on selection of the pharmaceutical advertisement via the interface device (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7).

Independent claim 90 is directed to a computer system including a processor and storage accessible by the processor. Exemplary embodiments are found, for example, at FIG. 3 and FIG.

6 of the present application and the corresponding disclosure. The storage includes program instructions operable by the processor to provide a pharmaceutical advertisement to an interface device, and includes program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device (see, e.g., Id., FIG. 6; FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 31, line 6 to p. 32, line 13; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7).

Independent claim 91 is directed to a computer system for displaying targeted healthcare advertisements. Exemplary embodiments are found, for example, at FIG. 3 and FIG. 6 of the present application and the corresponding disclosure. The computer system includes an advertising selecting computer (see, e.g., Id., FIG. 6; p. 30, lines 14-22), a device for enabling entry of healthcare related information into the system (see, e.g., Id., FIG. 3; p. 23, line 12 to p. 24, line 6) a database for storing the healthcare related information and advertising information (see, e.g., Id., FIG. 6; p. 30, line 22 to p. 31, line 5), and a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database (see, e.g., Id., FIG. 3; p. 25, lines 4-17). The database is connected to the advertising selecting computer. The advertising selecting computer compares the healthcare related information to the advertising information and selects a pharmaceutical advertisement for display at the device (see, e.g., Id., FIG. 6; p. 31, line 9 to p. 32, line 13). The advertising selecting computer transmits via the communications network the pharmaceutical advertisement to the device for display. In response to a computer user selecting the displayed pharmaceutical advertisement, a prescription is initiated based on the healthcare related information (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7).

Independent claim 92 is directed to a computer implemented method for managing health related information. Exemplary embodiments are found, for example, at FIG. 8, FIG. 18A, and FIGs. 22A-H of the present application and the corresponding disclosure. The method includes using patient medical information and healthcare provider information collected from at least one of a plurality of sources (see, e.g., Id., FIG. 3; p. 23, line 12 to p. 24, line 6), selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22A-H; p. 56, lines 11-19), transmitting the product advertisement to a computer user for display (see, e.g., Id., p. 55, line 19 to p. 56, line 4), and, in response to selection of the product advertisement, automatically initiating a healthcare product order based on the patient medical information (see, e.g., Id., FIG. 8; FIG. 18A; FIGs. 22E-22G; p. 37, line 21 to p. 38, line 12; p. 48, lines 5-23; p. 57, line 18 to p. 58, line 7).

In the specification, a formulary is used to refer to lists of medications covered by a patient's medical insurer (see, e.g., Id., p. 31, line 17; p. 57, line2 14-15) and "advertisement" refers to paid notice associated with a product (see, e.g., Id., p. 9, lines 19-22; p. 15, lines 8-11). In an exemplary method illustrated in FIGs. 22A-H, the health information manager evaluates two advertisements based on the patient and physician entered information, including the patient's insurance coverage and the insurer's formulary list of covered medications. In this example, the health information manager selects a different drug, Brand Y, which is covered by the patient's insurance company. An advertisement for Brand Y is displayed to the physician (see, e.g., Id., p. 57, lines 12-17).

In another exemplary method illustrated in FIG. 8, the healthcare worker chooses the preferred method for selecting a prescription. The options include a formulary selection 186. If the formulary method is selected, the system may directly display a list of drugs appropriate for

the complaint or a list of drugs appropriate for the diagnosis. At each step, the system may display one or more advertisements selected on the basis of information the system has obtained (see, e.g., Id., p. 36, line 21 to p. 37, line 20). As such, the specification makes clear that a "formulary" is not an "advertisement" and an "advertisement" is not a "formulary."

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

A. Claims 79-89 are rejected under 35 U.S.C. § 102(a) as unpatentable over U.S. Patent No. 5,845,255 to Mayaud (hereinafter, "Mayaud") as set forth in the Office Action dated April 11, 2007.

B. Claims 2-7, 9, 13, 25-29, 33-44, 64-65, 73, 77, 91, and 92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,385,592 to Angles et al. (hereinafter, "Angles et al.") in view of U.S. Patent No. 6,018,713 to Coli et al. (hereinafter, "Coli et al.") in view of Mayaud as set forth in the Office Action dated April 11, 2007.

C. Claim 12 is rejected under 35 U.S.C. § 103(a) as unpatentable over Angles et al. and Coli et al. and Mayaud in further view of "GoToWorld.com Named Fastest Growing Web Browser in World" by PR Newswire (hereinafter "Newswire") in the Office Action dated April 11, 2007.

D. Claim 90 is rejected under 35 U.S.C. § 103(a) as unpatentable over Mayaud and Angles et al. as set forth in the Office Action dated April 11, 2007.

VII. ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))

Based on the arguments and issues below, the claims do not stand or fall together, because in addition to having different scopes, each of the independent claims has a unique set of issues relating to its rejection and appeal as indicated in the arguments below:

A. Rejection of Claims 79-89 under 35 U.S.C. § 102(a)

Under 35 U.S.C. § 102, the Patent Office bears the burden of presenting at least a *prima facie* case of anticipation. In re Sun, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. Id. "In addition, the prior art reference must be enabling." Akzo N.V. v. U.S. International Trade Commission, 808 F.2d 1471, 1479, 1 USPQ2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987). That is, the prior art reference must sufficiently describe the claimed invention so as to have placed the public in possession of it. In re Donohue, 766 F.2d 531, 533, 226 USPQ 619, 621 (Fed. Cir. 1985). "Such possession is effected if one of ordinary skill in the art could have combined the publication's description of the invention with his own knowledge to make the claimed invention." Id.

During examination, the claims must be interpreted as broadly as their terms reasonably allow. In re American Academy of Science Tech Center, 367 F.3rd 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification. In re Zelt, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); Chef America, Inc., v. Lamb-Weston, Inc., 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004). Plain meaning refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art. It is the use of the

words in the context of the written description and customarily by those skilled in the relevant art that accurately reflects both the "ordinary" and the "customary" meaning of the terms in the claims. Ferguson Beauregard/Logic Controls v. Mega Systems, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009 (Fed. Cir. 2003). In construing claim terms, the general meanings gleaned from reference sources, such as dictionaries, must always be compared against the use of the terms in context, and the intrinsic record must always be consulted to identify which of the different possible dictionary meanings is most consistent with the use of the words by the inventor. ACTV, Inc. v. The Walt Disney Company, 346 F.3d 1082, 1092, 68 USPQ2d 1516, 1524 (Fed. Cir. 2003). If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with the applicant's use of the terms. Brookhill-Wilk 1, 334 F.3d at 1300, 67 USPQ2d at 1137.

I. Claims 79, 80, 81, 82, 83, 84, 85, 86, 87, and 88 are Allowable over Mayaud

Claim 79 is directed to a computer-implemented method for preparing a prescription including providing a pharmaceutical advertisement to an interface device and populating a prescription form based on selection of the pharmaceutical advertisement via the interface device.

In the Office Action dated April 11, 2007, the Examiner relies on Mayaud for all of the elements of claim 79. Mayaud discloses display of formulary lists of drugs (Mayaud, FIGs. 5 and 6, and col. 35, lines 23-50) and, allegedly, if the physician is satisfied with the formulary drug offered by the prescription management system, the drug may be selected and automatically posted to the prescription (Mayaud, col. 36, lines 26-30). Mayaud defines a drug formulary as a

list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005 (Final Office Action, pg. 4).

Clearly, Mayaud does not teach or remotely suggest providing a pharmaceutical advertisement to an interface device. Further, Mayaud does not teach or remotely suggest populating a prescription form based on selection of the pharmaceutical advertisement via the interface device. As such, Mayaud fails to disclose each and every element of claim 79. Therefore, claim 79 is not anticipated by Mayaud.

Claims 80, 81, 82, 83, 84, 85, 86, 87, and 88 depend from claim 79. For at least the foregoing reasons, claims 79, 80, 81, 82, 83, 84, 85, 86, 87, and 88 are allowable over Mayaud.

II. Claim 89 is Allowable over Mayaud

In addition to the foregoing reasons, claim 89 includes additional subject matter not fairly taught or remotely suggested by Mayaud. Claim 89 includes providing a pharmaceutical advertisement based on patient medical data. As above, Mayaud is silent regarding pharmaceutical advertisements. Further, Mayaud is silent regarding providing the

pharmaceutical advertisement based on patient medical data. As such, claim 89 is not anticipated by Mayaud and, therefore, is allowable over Mayaud.

B. Rejection of Claims 2-7, 9, 13, 25-29, 33-44, 64-65, 73, 77, 91, and 92 under 35 U.S.C. § 103(a)

According to 35 U.S.C. § 103(a), "[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains."

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing *a prima facie* case of obviousness. In re Fritch, 972 F.2d 1260,1262,23 U.S.P.Q. 2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Rijckaert, *9* F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. In re Oetiker, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); In re Grabiak, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

"Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 148 USPQ 459 (1966). As such, the PTO is to apply the established three-way test for patentability under 35 U.S.C. §103, including ascertaining differences between the prior art and the claims at issues. See generally *MPEP* 2141.

To establish a *prima facie* case of obviousness, all the claim features must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

I. Claims 2, 3, 4, 5, 6, 7, 9, and 13 are Patentable over the Cited References

Independent claim 2 is directed to a computer system for displaying targeted healthcare advertisements to a computer user. The computer system includes an advertising selecting computer, a device for enabling entry of healthcare related information into the system, a database for storing the healthcare related information and advertising information connected to the advertising selecting computer, and a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database. The advertising selecting computer compares the healthcare related information to the advertising information and selects advertising information for display at the device. The

advertising selecting computer transmits via the communications network a pharmaceutical advertisement associated with the advertising information to the device for display. In response to the computer user selecting the displayed pharmaceutical advertisement, a prescription form is automatically populated.

In rejecting claim 2 in the Office Action dated April 11, 2007, the Examiner appears to rely on Angles et al. for disclosure of computer architecture. Angles et al. disclose a system and method for delivering customized electronic advertisements in an interactive communication system. However, the Examiner acknowledges that Angles et al. fail to teach entry of healthcare related information, fail to teach the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network, and fail to teach a prescription form automatically populated in response to a computer user selecting the displayed pharmaceutical advertisement. As such, the Examiner appears to rely on Coli et al. for disclosure of entry of healthcare related information and for disclosure of the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network.

Coli et al. disclose a network-based system and method for ordering and cumulative results reporting of medical tests. Coli et al. further disclose that advertising for particular drug treatments or medical devices that may be needed by the patient may be provided as part of the test results reporting output. In particular, displayed drug advertising may be selected based on drugs which are recommended treatments for abnormal clinical results of a particular test. The drug treatment advertisement is hyper-linked to full advisory information about the drug, so that the physician can readily obtain information about that possible treatments for conditions suggested by the test results (Coli et al., col. 4, lines 26-35). The Examiner correctly acknowledges that Angles et al. and Coli et al. fail to teach, in response to a computer user

selecting the displayed advertisement, a prescription form is automatically populated. Accordingly, the Examiner turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest a prescription form is automatically populated in response to a computer user selecting the displayed advertisement.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest a prescription form is automatically populated in response to a computer user selecting the

displayed advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 2.

Claims 3, 4, 5, 6, 7, 9, and 13 depend from claim 2. For at least the foregoing reasons, claims 2, 3, 4, 5, 6, 7, 9, and 13 are allowable over the cited references.

II. Claims 25, 26, 27, 28, 29, 33, 34, and 73 are Patentable over the Cited References

Independent claim 25 is directed to a computer implemented method for managing health related information. The method includes using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information, transmitting the product advertisement to a computer user for display, and, in response to selection of the product advertisement, automatically populating a healthcare product order form. Claim 73 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 25.

In rejecting claim 25 in the Office Action dated April 11, 2007, the Examiner appears to rely on Angles et al., Coli et al., and Mayaud for disclosure of using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information, and transmitting the product advertisement to a computer user for display. However, the Examiner correctly acknowledges that Angles et al. and Coli et al. fail to teach in response to selection of the product advertisement, automatically populating a healthcare product order form. Accordingly, the Examiner turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically populating a healthcare product order form in response to a computer user selecting the displayed advertisement.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest automatically populating a healthcare product order form in response to a computer user selecting the displayed advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 25.

Claims 26, 27, 28, 29, 33, 34, 45, 46, and 73 depend from claim 25. For at least the foregoing reasons, claims 25, 26, 27, 28, 29, 33, 34, 45, 46, and 73 are allowable over the cited references.

III. Claim 35 is Patentable over the Cited References

In addition to the foregoing reasons, claim 35 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 35 states that if the prescription contains at least one refill, at least one prescription refill is not sent to the patient-selected pharmacy and is electronically stored for the patient. Claim 35 depends from claim 34 and as such is read in the context of a prescription being sent to a patient-selected pharmacy.

The Examiner appears to rely on Mayaud for disclosure of the subject matter of claim 35. Mayaud discloses a Refill field that shows the number of times refilling is permitted (Mayaud, col. 26, lines 33-34). When the drug specification is complete, a Send RX button is pressed to output the prescription to remote file transfer as an electronic prescription (Mayaud, col. 27, lines 31-35). Mayaud teaches and suggests sending the prescription including any refills. Mayaud is silent regarding not sending at least one prescription refill to the patient-selected pharmacy and electronically storing the prescription refill when the prescription contains at least one refill. Angles et al., Coli et al., and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claim 35 is independently patentable over the cited references.

IV. Claim 36 is Patentable over the Cited References

In addition to the foregoing reasons, claim 36 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 36, the electronically stored prescription refill is sent to the patient-selected pharmacy upon request of the patient.

Since claim 36 depends from claim 35 which in turn depends from claim 34, claim 36 is to be read in the context of a stored prescription refill that is not sent with the original prescription.

The Examiner appears to rely on Mayaud for disclosure of the subject matter of claim 36. As above, Mayaud fails to teach or remotely suggest storing a prescription refill. In addition, Mayaud is silent regarding sending the electronically stored prescription refill upon request of the patient. Angles et al., Coli et al., and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claim 36 is independently patentable over the cited references.

V. Claims 37 and 38 are Patentable over the Cited References

In addition to the foregoing reasons, claim 37 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 37, the patient medical information includes drugs the patient is allergic to and, in the selecting step, filtering pharmaceutical advertisements for drugs the patient is allergic to prior to display.

The Examiner appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs the patient is allergic to prior to display. Angles et al., Coli et al., and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claim 37 is independently patentable over the cited references.

VI. Claim 39 is Patentable over the Cited References

In addition to the foregoing reasons, claim 39 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 39 is directed to the method wherein filtering comprises displaying the pharmaceutical advertisement with a warning.

Angles et al., Coli et al., and Mayaud are silent regarding displaying the pharmaceutical advertisement with a warning in the context of filtering a pharmaceutical advertisement for drugs the patient is allergic to prior to display. Coli et al. disclose if an appropriate sponsored drug or item is identified, the advertisement for that drug or item is transmitted to the physician terminal with the test results, and displayed in a format that highlights the determination by the expert system that the physician may wish to consider this drug as a treatment. This highlighting may be textual, such as display of "Expert System Recommends Consideration:" visual, such as distinctive coloration of the ad or its border, audible, or may use any other highlighting method which will convey to the physician the determination of the expert system that this drug may be worthy of consideration (Coli et al., col. 17, lines 4-10). However, Coli et al. and the other cited references, separately and in combination, fail to teach displaying the pharmaceutical advertisement with a warning in the context of filtering pharmaceutical advertisements for drugs to which the patient is allergic. As such, Appellants respectfully submit that claim 39 is independently patentable over the cited references.

VII. Claim 40 is Patentable over the Cited References

In addition to the foregoing reasons, claim 40 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 40, the patient medical information includes drugs for which the patient has had adverse reactions, and, in the selecting step, filtering pharmaceutical advertisements for drugs that the patient has had adverse reactions.

The Examiner appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs in which the patient has had adverse reactions. Angles et al., Coli et al.,

and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claim 40 is independently patentable over the cited references.

VIII. Claims 41 and 42 are Patentable over the Cited References

In addition to the foregoing reasons, claim 41 includes additional subject matter not fairly taught or remotely suggested by the cited references. As recited in claim 41, the patient medical information includes drugs selected from the group consisting of drugs for which the patient has had an adverse reaction, drugs in the same class as drugs for which the patient has had an adverse reaction, drugs for which the patient's family has a history of adverse reactions, drugs for which genetic profiling has indicated the patient may have an adverse reaction, and drugs which may interact adversely with drugs the patient is currently taking, and in the selecting step, determining pharmaceutical advertisements for drugs from the group and filtering said pharmaceutical advertisements.

The Examiner appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical advertisements for drugs from the above group. Angles et al., Coli et al., and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claims 41 and 42 are patentable over the cited references.

IX. Claim 43 is Patentable over the Cited References

In addition to the foregoing reasons, claim 43 includes additional subject matter not fairly taught or remotely suggested by the cited references. Claim 43 is directed to the method wherein filtering comprises displaying the pharmaceutical advertisement with a warning.

Angles et al., Coli et al., and Mayaud are silent regarding displaying the pharmaceutical advertisement with a warning in the context of filtering a pharmaceutical advertisement for drugs from the group of claim 41. Coli et al. further disclose if an appropriate sponsored drug or item is identified, the advertisement for that drug or item is transmitted to the physician terminal with the test results, and displayed in a format that highlights the determination by the expert system that the physician may wish to consider this drug as a treatment. This highlighting may be textual, such as display of "Expert System Recommends Consideration:" visual, such as distinctive coloration of the ad or its border, audible, or may use any other highlighting method which will convey to the physician the determination of the expert system that this drug may be worthy of consideration (Coli et al., col. 17, lines 4-10). However, Coli et al. and the other cited references, separately and in combination, fail to teach or even suggest displaying the pharmaceutical advertisement with a warning in the context of filtering pharmaceutical advertisements. As such, Appellants respectfully submit that claim 43 is independently patentable over the cited references.

X. Claim 44 is Patentable over the Cited References

In addition to the foregoing reasons, claim 44 includes additional subject matter not fairly taught or remotely suggested by the cited references. As claimed in claim 44, the patient medical information includes drugs the patient is currently taking, and in the selecting step, determining pharmaceutical advertisements for drugs that are not included in the formulary of the patient's insurance company.

The Examiner appears to rely on Mayaud's disclosure of a Problem button (Mayaud, FIG. 3), which shows a patient problem history. However, Mayaud is silent regarding filtering pharmaceutical advertisements and, in particular, is silent regarding filtering pharmaceutical

advertisements for drugs not included in the formulary of the patient's insurance company. Angles et al., Coli et al., and their combination with Mayaud fail to overcome this deficiency. As such, Appellants respectfully submit that claim 44 is independently patentable over the cited references.

XI. Claims 64, 65 and 77 are Patentable over the Cited References

Independent claim 64 is directed to a computer-implemented method of displaying targeted healthcare product information. The method includes using stored medical information from a plurality of sources. The sources include (i) for a selected patient, a patient's medical history, (ii) healthcare provider information, and (iii) prescription writing habits of a healthcare provider. The method also includes associating the medical information from the at least one of the plurality of sources with stored healthcare advertisement information to select a healthcare advertisement for display to a user that is related to the at least one of the plurality of sources. The method further includes transmitting the healthcare advertisement for electronically displaying to the user, and, in response to selection of the healthcare advertisement, automatically populating a healthcare product order form. Claim 77 is directed to a software program embodied on a computer-readable medium incorporating the method as recited in claim 64.

In rejecting claim 64 in the Office Action dated April 11, 2007, the Examiner appears to rely on Angles et al. and Coli et al. for teaching elements including using stored medical information, associated the medical information, and transmitting the healthcare advertisement. Appellants respectfully disagree that the combination of Angles et al. and Coli et al. suggest, for example, using stored medical information from a patient medical history, healthcare provider information and prescription writing habits of a healthcare provider. However, the Examiner

correctly acknowledges that Angles et al. and Coli et al. fail to teach or suggest in response to selection of the healthcare advertisement, automatically populating a healthcare product order form. Accordingly, the Examiner turns to Mayaud,

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically populating a healthcare product order form in response to selection of the healthcare advertisement.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest

automatically populating a healthcare product order form in response to selection of the healthcare advertisement and, as such, fail to teach or remotely suggest all of the elements of claim 64.

Claims 65 and 77 depend from claim 64. For at least the foregoing reasons, claims 64, 65, and 77 are allowable over the cited references.

XII. Claim 91 is Patentable over the Cited References

Independent claim 91 is directed to a computer system for displaying targeted healthcare advertisements. The computer system includes an advertising selecting computer, a device for enabling entry of healthcare related information into the system, a database for storing the healthcare related information and advertising information, and a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database. The database is connected to the advertising selecting computer. The advertising selecting computer compares the healthcare related information to the advertising information and selects a pharmaceutical advertisement for display at the device. The advertising selecting computer transmits via the communications network the pharmaceutical advertisement to the device for display. In response to a computer user selecting the displayed pharmaceutical advertisement, a prescription is initiated based on the healthcare related information.

In rejecting claim 91 in the Office Action dated April 11, 2007, the Examiner appears to rely on Angles et al. for disclosure of computer architecture. Angles et al. disclose a system and method for delivering customized electronic advertisements in an interactive communication system. By reference to a previous claim rejection, the Examiner appears to acknowledge that Angles et al. fail to teach entry of healthcare related information, fail to teach the advertising

computer transmitting a pharmaceutical advertisement to a device for display via the communication network, and fail to teach a prescription form automatically populated in response to a computer user selecting the displayed pharmaceutical advertisement. As such, the Examiner appears to rely on Coli et al. for disclosure of entry of healthcare related information and for disclosure of the advertising computer transmitting a pharmaceutical advertisement to a device for display via the communication network.

Coli et al. disclose a network-based system and method for ordering and cumulative results reporting of medical tests. Coli et al. further disclose that advertising for particular drug treatments or medical devices that may be needed by the patient may be provided as part of the test results reporting output. In particular, displayed drug advertising may be selected based on drugs which are recommended treatments for abnormal clinical results of a particular test. The drug treatment advertisement is hyper-linked to full advisory information about the drug, so that the physician can readily obtain information about that possible treatments for conditions suggested by the test results (Coli et al., col. 4, lines 26-35). By reference to a previous claim rejection, the Examiner appears to correctly acknowledge that Angles et al. and Coli et al. fail to teach, in response to a computer user selecting the displayed advertisement, a prescription is initiated based on the healthcare related information. Accordingly, the Examiner turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs

benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest a prescription is initiated based on the healthcare related information in response to a computer user selecting the displayed pharmaceutical advertisement.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest a prescription is initiated based on the healthcare related information in response to a computer user selecting the displayed pharmaceutical advertisement, and, as such, fail to teach or remotely suggest all of the elements of claim 91. Therefore, claim 91 is patentable over the cited references.

XIII. Claim 92 is Patentable over the Cited References

Independent claim 92 is directed to a computer implemented method for managing health related information. The method includes using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare

product advertisement for display to a computer user based on the patient medical information and healthcare provider information, transmitting the product advertisement to a computer user for display, and, in response to selection of the product advertisement, automatically initiating a healthcare product order based on the patient medical information.

In rejecting claim 92 in the Office Action dated April 11, 2007, the Examiner appears to rely on Angles et al., Coli et al., and Mayaud for disclosure of using patient medical information and healthcare provider information collected from at least one of a plurality of sources, selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information, and transmitting the product advertisement to a computer user for display. However, by reference to a previous claim rejection, the Examiner appears to correctly acknowledge that Angles et al. and Coli et al. fail to teach, in response to selection of the product advertisement, automatically initiating a healthcare product order form based on the patient medical information. Accordingly, the Examiner turns to Mayaud.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. This definition is consistent with use

of the term "advertisement" in the specification and by those skilled in the medical arts. As such, this definition is the ordinary and customary meaning of the term "advertisement" and therefore, is the plain meaning to be applied to the term "advertisement." Accordingly, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest automatically initiating a healthcare product order form based on the patient medical information in response to selection of the product advertisement.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary and a pharmaceutical advertisement in which selection of the pharmaceutical advertisement leads to additional information about the advertised pharmaceutical. As such, the cited references fail to teach or remotely suggest automatically initiating a healthcare product order form based on the patient medical information in response to selection of the product advertisement, and, as such, fail to teach or remotely suggest all of the elements of claim 92. Therefore, claim 92 is patentable over the cited references.

C. Rejection of Claim 12 under 35 U.S.C. § 103(a)

I. Claim 12 is Patentable over the Cited References

In addition to the foregoing reasons stated in relation to claim 2, claim 12 is patentable over the cited references in view of the Newswire. Claim 12 includes the advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for referring patients to a health information website. The Examiner correctly acknowledges that Angles et al., Coli et al., and Mayaud fail to explicitly teach calculating a revenue amount to be paid to the healthcare

provider for referring patients to a health information website. Accordingly, the Examiner turns to the Newswire.

Newswire is an article regarding GoToWorld.com and paying internet surfers for using a particular web browser and for referring other internet surfers to use the web browser. Newswire does not teach or suggest compensating a user of a system for referring a third party to a separate website. As such, when combined with the cited references, Newswire does not teach or suggest calculating an amount to be paid to a healthcare provider for referring patients to a health information website.

Even if the combination were suggested by the references, the combination, at best, would include a healthcare provider system in which the healthcare provider is compensated for referring other healthcare providers to use the healthcare provider system. Such a combination, in no way, would teach or remotely suggest an advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for referring patients to a health information website.

As such, claim 12 is patentable over the cited references in further view of Newswire.

D. Rejection of Claim 90 under 35 U.S.C. § 103(a) as being unpatentable over Mayaud and Angles et al.

I. Claim 90 is Allowable over Mayaud and Angles et al.

Claim 90 is directed to a computer system including a processor and storage accessible to the processor. The storage includes program instructions operable by the processor to provide a pharmaceutical advertisement to an interface device and includes program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

Mayaud discloses a wirelessly deployable, electronic prescription creation system for physician use. In addition, Mayaud discloses that a condition-specific, formulary drug list is displayed (Mayaud, col. 35, lines 38-43), and recites "may be selected and automatically posted to the novel prescription described herein (Mayaud, col. 36, lines 26-30)." Mayaud defines a drug formulary as a list of preferred drugs contained in a drug benefits plan issued by a drugs benefit provider to a given patient (Mayaud, col. 1, lines 59-61). Mayaud nowhere discloses an advertisement.

An advertisement, as defined by the Online Cambridge Dictionary of American English, is a paid notice that tells people about a product or service. As such, a drug formulary is clearly distinct from an advertisement as acknowledged by the Examiner in the Final Office Action dated March 30, 2005. Clearly, Mayaud does not teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

Angles et al. fail to overcome the deficiencies of Mayaud. Angles et al. disclose a system and method for delivering customized electronic advertisements in an interactive communication system. However, Angles et al. fail to teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

At best, the combination of the cited references would suggest to one of ordinary skill in the art a prescription system with a formulary drug list and an advertisement. The cited references fail to teach or remotely suggest program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device and, as such, fail to teach or remotely suggest all of the elements of claim 90.

As such, Appellants respectfully submit that claim 90 is allowable over Mayaud and Angles et al.

VIII. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL (37 C.F.R. § 41.37(c)(1)(viii))

The text of each claim involved in the appeal is as follows:

2. (*Previously presented*) A computer system for displaying targeted healthcare advertisements to a computer user comprising:
   a. an advertising selecting computer;
   b. a device for enabling entry of healthcare related information into the system;
   c. a database for storing the healthcare related information and advertising information connected to the advertising selecting computer; and
   d. a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database, wherein the advertising selecting computer compares the healthcare related information to the advertising information and selects advertising information for display at the device, the advertising selecting computer transmitting via the communications network a pharmaceutical advertisement associated with the advertising information to the device for display and, in response to the computer user selecting the displayed pharmaceutical advertisement, a prescription form is automatically populated.

3. *(Original)* The system of claim 2 wherein the healthcare related information comprises information received from a healthcare group consisting of healthcare providers, patients, healthcare service organizations, pharmaceutical companies, healthcare product and service vendors, pharmacies, medical facilities, healthcare information services, medical record databases, government agencies, non-profit organizations, health research organizations and billing companies.

4. *(Previously presented)* The system of claim 2 further comprising a database of stored non-healthcare related information connected to the advertising selecting computer wherein the advertising selecting computer compares the healthcare related information and the non-healthcare information to the advertising information and selects advertising information for display to the user that is related to the non-healthcare information.

5. *(Previously presented)* The system of claim 2 wherein the device is a wireless portable computer device.

6. *(Previously presented)* The system of claim 2 wherein the device is selected from the group consisting of web TV devices, personal digital assistant devices, personal computers, handheld portable computers, wireless telephone devices and wireless personal access devices.

7. *(Previously presented)* The system of claim 3 further comprising the advertising selecting computer constructs a medical record for a patient using healthcare information selected from at least one of the healthcare group and transmits the medical record via the communications network to the computer user.

9. *(Previously presented)* The system of claim 2 wherein automatically populating a prescription form includes initializing parameters of the prescription form to values based on patient medical information.

11. *(Previously presented)* The system of claim 2 further comprising the advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for using the computer system.

12. *(Previously presented)* The system of claim 2 further comprising the advertising selecting computer calculates a revenue amount to be paid to a healthcare provider for referring patients to a health information website.

13. *(Original)* The system of claim 2 wherein the communications network is selected from the group consisting of a global communications network, a wide area network, a local area network, a wireless telephone network, a satellite network, an interactive television network and a cable network.

25. *(Previously presented)* A computer implemented method for managing health related information comprising:

a. using patient medical information and healthcare provider information collected from at least one of a plurality of sources;

b. selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information;

c. transmitting the product advertisement to a computer user for display; and

d. in response to selection of the product advertisement, automatically populating a healthcare product order form.

26. *(Previously presented)* The method of claim 25 wherein the plurality of sources are selected from the group consisting of health care provider information, patient medical records, patient prescription records, patient entered information, medical test ordering and test result records, and health information.

27. *(Previously presented)* The method of claim 25 wherein the product advertisement comprises a pharmaceutical advertisement.

28. *(Original)* The method of claim 25 wherein at least one of the plurality of sources comprises collected user entered data and user actions as a user navigates through an electronic web page display.

29. *(Previously presented)* The method of claim 27 wherein the pharmaceutical advertisement is for a drug.

33. *(Previously presented)* The method of claim 25 wherein populating a healthcare product order form includes initializing parameters of a prescription to values based on the patient medical information.

34. *(Previously presented)* The method of claim 33 further comprising sending the prescription to a patient-selected pharmacy.

35. *(Original)* The method of claim 34 further comprising if the prescription contains at least one refill, at least one prescription refill is not sent to the patient-selected pharmacy and is electronically stored for the patient.

36. *(Original)* The method of claim of claim 35 wherein the electronically stored prescription refill is sent to the patient-selected pharmacy upon request of the patient.

37. *(Previously presented)* The method of claim 29 further comprising:

a. the patient medical information includes drugs the patient is allergic to; and

b. in the selecting step, filtering pharmaceutical advertisements for drugs the patient is allergic to prior to display.

38. *(Previously presented)* The method of claim 37 wherein filtering comprises not displaying the pharmaceutical advertisements.

39. *(Previously presented)* The method of claim 37 wherein filtering comprises displaying the pharmaceutical advertisements with a warning.

40. *(Previously presented)* The method of claim 29 further comprising:

a. the patient medical information includes drugs for which the patient has had adverse reactions; and

b. in the selecting step, filtering pharmaceutical advertisements for drugs the patient has had adverse reactions.

41. *(Previously presented)* The method of claim 29 further comprising:

a. the patient medical information includes drugs selected from the group consisting of drugs for which the patient has had an adverse reaction, drugs in the same class as drugs for which the patient has had an adverse reaction, drugs for which the patient's family has a history of adverse reactions, drugs for which genetic profiling has indicated the patient may have an adverse reaction, and drugs which may interact adversely with drugs the patient is currently taking; and

b. in the selecting step, determining pharmaceutical advertisements for drugs from the group and filtering said pharmaceutical advertisements.

42. *(Previously presented)* The method of claim 41 wherein filtering comprises not displaying the pharmaceutical advertisements.

43. *(Previously presented)* The method of claim 41 wherein filtering comprises displaying the pharmaceutical advertisement with a warning.

44. *(Previously presented)* The method of claim 29 further comprising:

a. the patient medical information includes drugs the patient is currently taking; and

b. in the selecting step, filtering pharmaceutical advertisements for drugs that are not included in the formulary of the patient's insurance company.

45. *(Original)* The method of claim 29 further comprising prioritizing pharmaceutical advertisement display order according to an amount of revenue received for displaying each pharmaceutical advertisement.

46. *(Original)* The method of claim 29 further comprising prioritizing pharmaceutical advertisement display order according to an amount of revenue received for displaying pharmaceutical advertisements for pharmaceuticals from a selected company.

64. *(Previously presented)* A computer-implemented method of displaying targeted healthcare product information, the method comprising:

a. using stored medical information from a plurality of sources comprising:

i. for a selected patient, a patient's medical history;

ii. healthcare provider information;

iii. prescription writing habits of a healthcare provider;

b. associating the medical information from the at least one of the plurality of sources with stored healthcare advertisement information to select a healthcare advertisement for display to a user that is related to the at least one of the plurality of sources;

c. transmitting the healthcare advertisement for electronically displaying to the user; and

d. in response to selection of the healthcare advertisement, automatically populating a healthcare product order form.

65. *(Original)* The system of claim 64 wherein the patient's medical history comprises information selected from the group consisting of patient history and examination information, patient test results information, patient prescription information, patient-entered information and other information relating to medical condition of the patient.

73. *(Original)* A software program embodied on a computer-readable medium incorporating the method as recited in claim 25.

77. *(Previously presented)* A software program embodied on a computer-readable medium incorporating the method as recited in claim 64.

79. *(Previously presented)* A computer-implemented method for preparing a prescription, the method comprising:

providing a pharmaceutical advertisement to an interface device; and

populating a prescription form based on selection of the pharmaceutical advertisement via the interface device.

80. *(Previously presented)* The method of claim 79, wherein populating the prescription form includes initializing prescription parameters.

81. *(Previously presented)* The method of claim 80, wherein prescription parameters are selected from the group consisting of dosage, frequency, form and duration.

82. *(Previously presented)* The method of claim 80, wherein the prescription parameters are determined based on information associated with a patient.

83. *(Previously presented)* The method of claim 82, wherein the information associated with the patient includes data associated with patient weight.

84. *(Previously presented)* The method of claim 79, wherein populating the prescription form includes providing a treatment regimen.

85. *(Previously presented)* The method of claim 84, wherein the treatment regimen includes strength, quantity, method of delivery, frequency, and duration of treatment.

86. *(Previously presented)* The method of claim 79, further comprising crediting a healthcare provider account based on selection of the pharmaceutical advertisement.

87. *(Previously presented)* The method of claim 79, further comprising receiving patient medical data from the interface device.

88. *(Previously presented)* The method of claim 87, wherein the patient medical data includes data associated with a patient condition.

89. *(Previously presented)* The method of claim 87, wherein providing the pharmaceutical advertisement is based on the patient medical data.

90. *(Previously presented)* A computer system comprising:

a processor; and

storage accessible by the processor, the storage including:

program instructions operable by the processor to provide a pharmaceutical advertisement to an interface device; and

program instructions operable by the processor to populate a prescription form based on selection of the pharmaceutical advertisement via the interface device.

91. *(Previously presented)* A computer system for displaying targeted healthcare advertisements comprising:

a. an advertising selecting computer;

b. a device for enabling entry of healthcare related information into the system;

c. a database for storing the healthcare related information and advertising information, the database connected to the advertising selecting computer; and

d. a communications network for transmitting the healthcare related information from the device to the advertising selecting computer for storage in the database, wherein the advertising selecting computer compares the healthcare related information to the advertising information and selects a pharmaceutical advertisement for display at the device, the advertising selecting computer transmitting via the communications network the pharmaceutical advertisement to the device for display and, in response to a computer user selecting the displayed pharmaceutical advertisement, a prescription is initiated based on the healthcare related information.

92. *(Previously presented)* A computer implemented method for managing health related information, the method comprising:

a. using patient medical information and healthcare provider information collected from at least one of a plurality of sources;

b. selecting a healthcare product advertisement for display to a computer user based on the patient medical information and healthcare provider information;

c. transmitting the product advertisement to a computer user for display; and

d. in response to selection of the product advertisement, automatically initiating a healthcare product order based on the patient medical information.

IX. EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

No Affidavits or Declarations were submitted under 37 C.F.R. 1.130, 1.131, or 1.132.

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

There are no decisions rendered by a court or interferences or other appeals that will directly affect, or be directly affected by, or have a bearing on the Board's decision in this appeal.

XI. CONCLUSION

For at least the reasons given above, all pending claims are allowable and the Appellants therefore respectfully request reconsideration and allowance of all claims and that this patent application be passed to issue.

Respectfully submitted,

7.11.07
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